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PRÉLIMINAIRE INTERNATIONAL
SUR LA BREVETABILITÉ (CHAPITRE I OU CHAPITRE II)
DU TRAITE DE COOPERATION EN MATIERE DE BREVETS

(règles 44bis.3.c) et 72.2 du PCT)

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POULIN, Gérard

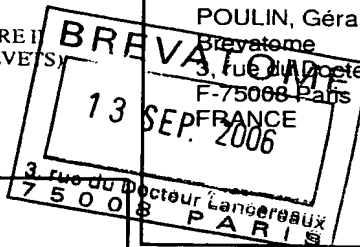
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B14436.3 DB

NOTIFICATION IMPORTANTE

Demande internationale n°

PCT/FR2004/050693

Date du dépôt international (jour/mois/année)

15 décembre 2004 (15.12.2004)

Déposant

COMMISSARIAT A L'ENERGIE ATOMIQUE etc

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Le Bureau international transmet ci-joint copie de la traduction en langue anglaise du rapport préliminaire international sur la brevetabilité (chapitre I).



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Il appartient au déposant d'établir la traduction en question et de la remettre directement à chaque office élu intéressé dans le délai applicable (règle 74.1). Voir le volume II du Guide du déposant du PCT pour de plus amples renseignements.

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TRAITÉ DE COOPÉRATION EN MATIÈRE DE BREVETS

PCT

RAPPORT PRÉLIMINAIRE INTERNATIONAL SUR LA BREVETABILITÉ (chapitre I du Traité de coopération en matière de brevets)

(règle 44bis du PCT)

Référence du dossier du déposant ou du mandataire B14436.3 DB	POUR SUITE À DONNER Voir le point 4 ci-dessous	
Demande internationale no. PCT/FR2004/050693	Date du dépôt international (<i>jour/mois/année</i>) 15 December 2004 (15.12.2004)	Date de priorité (<i>jour/mois/année</i>) 17 December 2003 (17.12.2003)
Classification internationale des brevets (8 ^e édition, sauf indication d'une #dition ant#rieure) Voir les informations pertinentes dans le formulaire PCT/ISA/237		
Déposant COMMISSARIAT A L'ENERGIE ATOMIQUE		

1. Le présent rapport préliminaire international sur la brevetabilité (chapitre I) est établi par le Bureau international au nom de l'administration chargée de la recherche internationale selon la règle 44bis.1.a).

2. Ce RAPPORT comprend un total de 8 feuilles, y compris la présente feuille de couverture.

Dans les feuilles jointes, toute référence à l'opinion écrite de l'administration chargée de la recherche internationale doit être entendue, à la place, comme une référence au rapport préliminaire international sur la brevetabilité (chapitre I).

3. Le présent rapport contient des indications relatives aux points suivants :

- | | | |
|-------------------------------------|---------------|---|
| <input checked="" type="checkbox"/> | Cadre n° I | Base de l'opinion |
| <input type="checkbox"/> | Cadre n° II | Priorité |
| <input type="checkbox"/> | Cadre n° III | Absence de formulation d'opinion quant à la nouveauté, l'activité inventive et la possibilité d'application industrielle |
| <input type="checkbox"/> | Cadre n° IV | Absence d'unité de l'invention |
| <input checked="" type="checkbox"/> | Cadre n° V | Déclaration motivée selon l'article 35.2) quant à la nouveauté, l'activité inventive et la possibilité d'application industrielle; citations et explications à l'appui de cette déclaration |
| <input type="checkbox"/> | Cadre n° VI | Certains documents cités |
| <input type="checkbox"/> | Cadre n° VII | Certaines irrégularités relevées dans la demande internationale |
| <input type="checkbox"/> | Cadre n° VIII | Certaines observations relatives à la demande internationale |

4. Le Bureau international communiquera le présent rapport aux offices désignés conformément aux règles 44bis.3.c) et 93bis.1 mais pas avant l'expiration du délai de 30 mois à compter de la date de priorité (règle 44bis.2), sauf si le déposant a présenté une requête expresse à cet égard en vertu de l'article 23.2).

Date d'établissement du présent rapport
29 August 2006 (29.08.2006)

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PATENT COOPERATION TREATY

TRANSLATION

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing (day/month/year) **See Form PCT/ISA/210 (sheet 2)**

Applicant's or agent's file reference B14436.3 DB		FOR FURTHER ACTION See paragraph 2 below	
International application No. PCT/FR2004/050693	International filing date (day/month/year) 15.12.2004	Priority date (day/month/year) 17.12.2003	
International Patent Classification (IPC) or both national classification and IPC G01 N1/00 G01 N21/79			
Applicant COMMISSARIAT A L'ENERGIE ATOMIQUE			

1. This opinion contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the opinion
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. 1 Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion has been established on the basis of a translation from the original language into the following language
_____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ in written format

☐ in computer readable form

c. time of filing/furnishing

☐ contained in the international application as filed.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/FR2004/050693

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-18	YES
	Claims		NO
Inventive step (IS)	Claims	11	YES
	Claims	1-10, 12-18	NO
Industrial applicability (IA)	Claims	1-18	YES
	Claims		NO

2. Citations and explanations:

1 Reference is made to the following documents:

D1: US-A-5 849 592 (CAMPBELL DANIEL L *ET AL.*)
15 December 1998 (1998-12-15)

D2: GB 967 586 A (CLIFFORD CHARLES HACH) 26 August
1964 (1964-08-26)

D3: US-A-4 399 225 (HANSEL ELO H *ET AL.*) 16 August
1983 (1983-08-16)

D4: US-A-5 252 486 (O'LEAR CHRISTINA *ET AL.*)
12 October 1993 (1993-10-12)

D5: DE 197 36 641 A (WELLER MICHAEL G DR;
WINKLMAIR MICHAEL (DE); SCHUETZ ANDREAS (DE);
NI) 11 March 1999 (1999-03-11)

2 INDEPENDENT CLAIM 1

2.1 The present application fails to comply with the requirements of PCT Article 33(1) since the subject matter of claim 1 does not involve an inventive step as defined in PCT Article 33(3).

2.1.1 Document D1, which describes a method and a device for carrying out a reaction and for automatically analysing the result of the

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Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

reaction, and which is considered to be the closest prior art to the subject matter of claim 1, has already described most of the technical features of claim 1 (see the passages of the search report).

- 2.1.2 The subject matter of claim 1 therefore differs from the teachings of D1 by the following technical features:
- a transparent hose to which the detection means are coupled;
 - detection of the levels of filtered light.

- 2.1.3 The problem that the present invention is intended to solve can thus be considered to be how to detect a reaction that produces a distinctive colour in the specimen/reactant mixture contained in the reaction loop.

- 2.1.4 The solution, as proposed in claim 1 of the present application, is not considered to involve an inventive step (PCT Article 33(3)) for the following reasons:
- the technical features through which claim 1 differs from the teachings of D1 and the technical problems solved by these features are already known from document D2, which describe a reaction and automatic analysis apparatus (see the passages of the search report, in particular page 3, lines 20-48 of D2).

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Reasoned statement under Rule 43bis 1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

2.1.5 Consequently, the features described in documents D1 and D2 would be combined by a person skilled in the art, without him taking an inventive step, in order to solve the stated problem. The solution, as proposed in independent claim 1, cannot therefore be considered to involve an inventive step (PCT Article 33(3)).

3 INDEPENDENT CLAIM 12

3.1 The present application fails to comply with the requirements of PCT Article 33(1) since the subject matter of claim 12 does not involve an inventive step as defined in PCT Article 33(3).

3.1.1 Document D1, which is considered to be the closest prior art to the subject matter of claim 12, has already described most of the technical features of claim 1 (see the passages mentioned in the search report).

3.1.2 The subject matter of claim 12 therefore differs from the teachings of D1 by the following technical features:

- the transparent hose (of the reaction loop);
- means of detection recording the levels of light transmitted (by the reaction loop) after filtering.

3.1.3 The problem that the present invention is

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Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

intended to solve can thus be considered to be how to detect a reaction that produces a distinctive colour in the specimen/reactant mixture contained in the reaction loop.

3.1.4 The solution, as proposed in claim 12 of the present application, is not considered to involve an inventive step (PCT Article 33(3)) for the following reasons:
the technical features through which claim 12 differs from the teachings of D1 and the technical problem solved by these features are already known from document D2, which describe a reaction and automatic analysis apparatus (see the passages of the search report, in particular page 3, lines 20-48 of D2).

3.1.5 Consequently, the features described in documents D1 and D2 would be combined by a person skilled in the art, without him taking an inventive step, in order to solve the stated problem. The solution, as proposed in independent claim 12, cannot therefore be considered to involve an inventive step (PCT Article 33(3)).

4 DEPENDENT CLAIMS 2-10, 13-18

The claims contain no features which, in combination with the features of any one claim to which they refer, meet the requirements of the PCT in respect of novelty and inventive step (PCT Article 33(2) and (3)), see documents D1-D5 and the passages cited in

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Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

the search report. Documents D3-D5 describe:

- D3: measurement of the various stages of a reaction, by measuring a concentration gradient;
- D4: a method of carrying out a reaction with successive injection of fixed volumes of a liquid over predefined time intervals; and
- D5: a CCD detector along the reaction loop in a reaction apparatus.

5 DEPENDENT CLAIM 11

The combination of the features of claim 11 is not included within the prior art and does not follow in an obvious manner therefrom, for the following reasons: a sensor capable of moving along the reaction loop is not known in the prior art relating to FIA (Flow Injection Analysis) or analysis by the injection of analyte into the liquid flow of a carrier.